IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

MONDAY, THE TWENTY FIRST DAY OF JUNE
TWO THOUSAND AND FOUR

PRESENT
THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 10039 of 2004

Between:
1 B.Krishna, S/o Balaiah,
Binder, Printing and Stationery, SC Rly. Mettuguda, Secunderabad.
2 T.Veeraprakash, S/o Krishna,
Printing and Stationery, SC Rly. Mettuguda, Secunderabad.

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PETITIONERS

AND

1 The State of AP, Co-op Department, O/o The Divisional Co-op Officer, Hyderabad (Urban) District, rep.by its CSR/Sales Officer.
2 The Govt. of A.P., Co-op Department, O/o The District Co-op Officer,
Hyderabad (Urban) District rep.by its CSR/Sales Officer.
3 The Govt.of A.P.rep.by its Secretary, Co-operative Dept. Secretariat,
Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ or a direction or an order particularly one in the nature of Writ of Mandamus declaring the inaction of Respondent No.3 in not entertaining the Revision Application dated 30-4-2004 U/s 77(3) of the AP Co-op Societies Rules 1964 as illegal, arbitrary and violative of the rights of the petition under Article 14 & 366 of the Constitution of India

Counsel for the Petitioners: Mr.J.C.FRANCIS

Counsel for the Respondents: GP FOR COOPERATION

The Court made the following ORDER:

This writ petition is filed by the petitioners praying for writ of mandamus declaring the action of the third respondent in not entertaining the Revision Application dated 30.04.2004 under Section 77(3) of the Andhra Pradesh Co-operative Societies Act, 1964 (for short 'the Act') as illegal, arbitrary and violative of the provisions of Article 14 of the Constitution of India.

2. According to the petitioners, they are employees of the Printing and Stationery Department, South Central Railway, Mettuguda, Secunderabad. According to the petitioners, they received a notice in E.P. from the respondents 1 and 2, with reference to an award, passed in the year 2001 for recovery of the awarded amount, which was passed on 21.12.2001. Long after the said award was passed, the present E.P. No.119 of 2003 was filed before the respondents 1 & 2 for recovery of the amount covered by the award and through the order dated 24.03.2004 the respondents 1 & 2 have issued proceedings for recovery of the amount covered by E.P., by attaching the salary of the petitioners. Aggrieved by the said order, the petitioners preferred a revision under Section 77(3) of the Act. It is alleged that the Government – the first respondent herein did not entertain the revision. Therefore, they have come up with the present writ petition.

3. The learned counsel contended that the inaction of the

Government in not entertaining the revision is illegal and without jurisdiction and therefore, sought for a direction to the Government to entertain and dispose of the revision on merits and pending disposal of the revision sought for a direction to the respondents not to execute the award.

4. The learned Government Pleader for Cooperation contended that the revision is not maintainable as the impugned order is an appealable order, under Section 76 of the Act. The petitioners did not file any appeal either against the award passed by the Tribunal or even against the order of attachment of salary for recovery of the amount covered by E.P.No.119 of 2003. As there is a remedy of appeal provided under the Act against the impugned order no revision lies, as there is a specific bar under Section 77(1) of the Act. Therefore, the petitioners are not entitled to maintain the revision before the first respondent – Government.

5. Heard the learned counsel for both the parties and considered material on record.

6. Admittedly, the petitioners did not file an appeal, as provided under Section 76(1) of the Act either against the original award or against the order passed in E.P. attaching the salary of the petitioners. In the absence of any appeal being filed, the revision filed before the first respondent is not maintainable, in terms of 77(1) of the Act. Under the above circumstances, the petitioners are not entitled to seek any mandamus directing the first respondent to entertain revision and dispose of the same on merits.

7. Under the above circumstances the writ petition is dismissed as devoid of merits. No costs

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21.06.2004

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ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. The CSR/Sales Officer, Co-op Department, State of AP,
   O/o The Divisional Co-op Officer, Hyderabad (Urban) District
2 The CSR/Sales Officer , Co-op Department, Govt. of A.P.,
   O/o The District Co-op Officer, Hyderabad (Urban) District
3 The Secretary, Co-operative Dept., Govt.of A.P., Secretariat,
   Hyderabad.
4 Two CCs to G.P. for Cooperation, High Court Buildings,
   Hyderabad (OUT)
5 Two CD copies